

REPORT BY THE  
AUDITOR GENERAL  
OF CALIFORNIA

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**A REVIEW OF PERSONNEL PRACTICES  
AT THE MILITARY DEPARTMENT:  
SOME PRACTICES FOR STATE ACTIVE DUTY  
EMPLOYEES NEED IMPROVEMENT**

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P-822.1

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SOME PRACTICES FOR STATE ACTIVE DUTY  
EMPLOYEES NEED IMPROVEMENT

APRIL 1990



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April 5, 1990

P-822.1

Honorable Elihu M. Harris, Chairman  
Members, Joint Legislative  
Audit Committee  
State Capitol, Room 2148  
Sacramento, California 95814

Dear Mr. Chairman and Members:

The Office of the Auditor General presents its report concerning personnel management practices of the Military Department. The report indicates a need for the Military Department to improve its use and management of State Active Duty employees.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kurt R. Sjoberg".  
KURT R. SJOBERG  
Acting Auditor General

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## SUMMARY

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### RESULTS IN BRIEF

The California Military Department, which includes the California National Guard, is directed by the adjutant general and uses both full-time and part-time personnel to accomplish its state and federal missions. During our review of personnel issues concerning the department, we found the following conditions:

- At least 30 of the department's 210 State Active Duty (SAD) positions do not clearly require military knowledge and experience and could be converted to state civil service positions;
- Although converting some of these positions would increase the department's personnel costs, overall the department would save approximately \$57,000 annually by converting all 30 positions;
- The department has not always requested and obtained approval from the Department of Finance before reclassifying SAD positions;
- The department did not follow its regulations for announcing vacancies in 34 of 54 SAD officer positions, including 18 positions it considers "key staff";
- In a sample of 22 SAD employees who participated in federal active duty, 8 employees did not take appropriate leave from their regular duties and were inappropriately paid approximately \$10,600; and
- The adjutant general has the authority to place officers of the California National Guard on retired or reserve status.

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## BACKGROUND

The California Military Department (department) includes the Office of the Adjutant General, the California National Guard, the State Military Reserve, the California Cadet Corps and the Naval Militia. The adjutant general is the director of the department and the commander of the California National Guard.

The California National Guard has both state and federal missions. Consequently, it receives funding support and staffing from both the state and federal governments. In fulfilling its missions, the department directs approximately 3,900 permanent full-time federal employees and 648 permanent full-time state employees stationed around the State; 210 of the latter are classified as SAD military employees. The department also directs the approximately 28,000 authorized officers and enlisted personnel who make up the California National Guard. In fiscal year 1989-90, the department's state budget is approximately \$50 million, including \$22.3 million from the State's General Fund and \$25.3 million from Federal Trust Fund appropriations. In addition, the department estimates that in fiscal year 1989-90, the federal government will make direct payments of approximately \$304 million in support of the California National Guard.

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## PRINCIPAL FINDINGS

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### More State Active Duty Positions Could Be Converted to State Civil Service Positions

Between July 1, 1984, and December 31, 1989, the department converted 23 SAD positions to state civil service positions. We reviewed a judgmental sample of 37 SAD positions and found that 30 do not clearly require military knowledge and experience and could be converted to civil service positions. Although converting some of these positions would

increase the department's personnel costs, overall the department would save approximately \$57,000 annually by converting all 30 positions. Since the department has not developed written criteria for periodically evaluating SAD positions to determine if they should be converted to state civil service, it is paying more than it needs to for some of its positions, and qualified state civil service employees may miss opportunities to compete for these positions.

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#### Positions Were Reclassified Without Appropriate Approval

In five of ten position reclassifications between fiscal years 1984-85 and 1988-89 that we reviewed, the department did not request the required approval from the Department of Finance. When departments do not follow proper procedures for reclassifying positions, the Department of Finance cannot provide the Legislature with accurate information so that it can oversee the expenditure of funds for state programs.

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#### Vacancies Are Not Always Announced, As Required by Department Regulations

We reviewed 54 vacancies for SAD officer positions that occurred between July 1, 1984, and June 30, 1989; the department appropriately handled 20 by either announcing the vacancy or getting approval to waive this requirement. The department did not process 34 of the vacancies as required by its regulations. The department considered 18 of these 34 unannounced vacancies to be "key staff" positions and, therefore, exempt from its announcement provisions. For the remaining 16 unannounced positions, the department's staff did not request prior approval to waive the announcement requirement. As a result, qualified individuals may have missed opportunities to compete for vacant SAD positions, and the department may have missed opportunities to select the best-qualified individuals for the vacant positions.

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### Weak Controls Over Leave Reporting

Fourteen of a sample of 22 SAD employees who participated in federal active duty between July 1, 1984, and June 30, 1989, did not take appropriate leave from their regular state duties, as required. Of these 14 employees, 8 had exhausted their available military leave and should have taken annual leave or leave without pay. As a result, the department inappropriately paid these 8 individuals a total of 165 days' compensation, or approximately \$10,600. This situation occurred because employees did not always submit accurate time and attendance sheets and supervisors did not always verify the accuracy of the time and attendance sheets of their SAD employees.

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### The Adjutant General Has the Authority To Place Officers of the California National Guard on Retired or Reserve Status

In 1983, a federal district court ruled and, in 1984, a federal appeals court affirmed that the adjutant general, on behalf of the governor, has the authority to remove officers in the California National Guard from their positions and place them in a reserve or retired status without a hearing or findings. Between February 1, 1984, and June 30, 1989, the adjutant general used this authority to remove at least four officers from their senior command positions in the California National Guard and transfer them to the retired and reserve lists of the California National Guard. Two of these four officers were also federal employees who were required to be federally recognized members of the National Guard as a condition of employment. Consequently, these two officers were terminated from their federal employment as a result of their transfers to the reserve list.

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The Department Was Not Required  
To Follow Certain Procedures in  
Conducting a 1984 Inquiry

According to a March 13, 1990 Legislative Counsel opinion, witnesses in criminal investigations by the department must be advised of certain legal rights if they are suspected or accused of a criminal offense and they are in custody or deprived of their freedom of action in any significant way. According to the transcripts of interviews during a 1984 inquiry at a California National Guard base, the witnesses whose activities were the focus of the inquiry were not suspected or accused of any federal or state offenses. The inquiry team did not advise these witnesses of the legal rights of suspected or accused persons, and the team was not required to do so.

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**CORRECTIVE ACTION**

During our audit, the adjutant general issued a memorandum to all SAD employees reminding them of the requirement to take appropriate leave while performing federal active duty. He also informed SAD employees that if they submit fraudulent attendance reports, they will be appropriately disciplined. Finally, the department initiated an internal audit of the use of leave by all SAD employees between July 1, 1984, and June 30, 1989.

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**RECOMMENDATIONS**

To improve its use and management of State Active Duty (SAD) employees, the department should take the following actions:

- Develop and use written criteria and procedures to periodically evaluate SAD positions for possible conversion to state civil service positions;
- Convert SAD positions to state civil service positions when they become vacant if the

positions do not require military experience, if comparable state civil service position classifications exist, and if the state civil service positions would cost less than the SAD positions or if the conversion would be in the State's best overall interest;

- Submit requests to reclassify SAD positions to the Department of Finance in accordance with provisions of the Budget Act and with directives from the Department of Finance;
- Ensure that all vacancies for SAD positions are announced as required by the department's regulations or that appropriate senior management officials approve exceptions to the vacancy announcement policy;
- Require supervisors who request approval for exceptions to the department's vacancy announcement policy to provide written justification to senior management officials;
- Take immediate steps to recoup inappropriate payments to SAD employees who did not take appropriate leave when participating in federal active duty; and
- Ensure that supervisors of SAD employees verify and approve the time and attendance sheets of their subordinates.

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**AGENCY COMMENTS**

In response to our report, the Military Department emphasized that State Active Duty personnel are in a military status 24 hours a day, seven days a week, and, therefore, it would be inappropriate to consider the State Active Duty system as equivalent in all respects to state civil service. Also, in its response, the department stated that it has implemented or plans to implement our recommendations.

## INTRODUCTION

The California Military Department (department) includes the Office of the Adjutant General, the California National Guard, the State Military Reserve, the California Cadet Corps, and the Naval Militia. The adjutant general, who is appointed by the governor with the advice and consent of the Senate, is the director of the department and the commander of the California National Guard.

The California Air National Guard and the California Army National Guard are the two largest entities in the department and together make up the California National Guard. As of July 1, 1989, the federal government's authorized strength for the California National Guard was approximately 28,000 officers and enlisted personnel: 6,000 personnel for the California Air National Guard and 22,000 personnel for the California Army National Guard. These traditional National Guard personnel are considered part-time and must participate in four-hour drill and instruction periods at least 48 times each year and in 15 days of federal training exercises each year.

The California National Guard has both state and federal missions. Its federal mission is to provide units and organizations capable of and ready for rapid deployment in times of conflict or national emergency. Its state mission is to provide trained forces to support civil authorities in the protection of life and property and in

the preservation of peace, order, and public safety. For example, the California National Guard provides support to communities during or following natural disasters, such as the October 1989 earthquake in the San Francisco Bay Area.

As of February 1, 1990, the department had 648 full-time state staff positions, including 438 state civil service positions and 210 positions for employees classified by the department as "State Active Duty" (SAD). Of these 210 SAD employees, 99 are paid with General Fund monies, 107 are paid with Federal Trust Fund monies, and 4 are paid with both General Fund and Federal Trust Fund monies. All SAD personnel serve in the Office of the Adjutant General, which has assigned positions at its headquarters in Sacramento and at other locations in California.

The department's SAD employees are exempt from the State's civil service system and must be current or retired members of California's Active Militia, which includes the California National Guard, the State Military Reserve, and the Naval Militia. The department's civil service employees and its SAD employees both perform duties necessary for the support of California's Military Department, including the ongoing operation of the California National Guard.

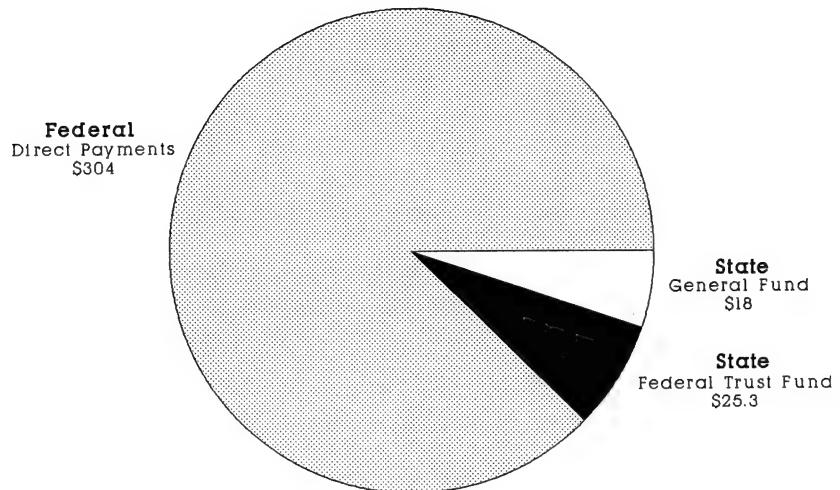
In addition to managing its state employees, the department also manages approximately 3,900 full-time federal employees that it is authorized by the federal government. These federal employees perform

duties at various locations in California, including the department's headquarters in Sacramento, in support of the California National Guard. Three of the four categories of full-time federal employees managed by the department--"excepted federal technicians" and Air and Army "Active Guard/Reserve" personnel--must be "federally recognized" members of the California National Guard as a condition of federal full-time employment. "Competitive" federal technicians need not be members of the National Guard. A federally recognized position in the California National Guard is one that is authorized and funded by the federal government.

The department's budget for fiscal year 1989-90 is approximately \$50 million, including \$22.3 million from the State's General Fund, \$25.3 million in Federal Trust Fund appropriations, and \$2.5 million in reimbursements. Of the \$22.3 million in the General Fund monies, approximately \$18 million is budgeted for support of the California National Guard. All of the \$25.3 million in the department's Federal Trust Fund appropriations is for support of the California National Guard. In addition, the department estimates that in fiscal year 1989-90, the federal government will provide approximately \$304 million in direct payments in support of the California National Guard (see Chart 1).

CHART 1

**CALIFORNIA NATIONAL GUARD  
FUNDING SOURCES  
FISCAL YEAR 1989-90  
(Millions of Dollars)**



Source: 1989-90 Governor's Budget

SCOPE AND METHODOLOGY

The purpose of this audit was to review the administration and management of the department, especially the personnel issues concerning the California National Guard and the department's SAD employees.

In reviewing the department's use and management of SAD employees, we reviewed the department's criteria for classifying a position as a SAD position, its costs associated with using SAD employees instead of state civil service employees, its selection and reassignment of personnel to vacant SAD positions, and its

reclassification of SAD positions. We also reviewed the use of military leave by SAD employees when participating in federal active duty.

To review the department's costs of using SAD employees instead of state civil service employees, we first examined the position descriptions of 37 of the 210 SAD positions that the department was authorized as of February 1, 1990, and determined whether the duties and responsibilities clearly indicated a need for military employees. For the positions that did not clearly require military employees, we compared the salaries and benefits of the individuals currently in the positions with the salaries and benefits, as of February 1, 1990, of comparable state civil service position classifications.

To review the department's selection and reassignment of SAD personnel, we first identified 55 SAD positions for warrant and commissioned officers that became vacant from July 1, 1984, through June 30, 1989. We then reviewed all of the department's announcements for vacant positions during this period. Finally, for any position vacancies that the department did not announce, we asked for approval for these exceptions to the department's announcement policy.

In analyzing the department's reclassification of SAD positions, we reviewed several budget acts, management memoranda from the Department of Finance, the department's procedures for

reclassifying SAD positions, and a sample of ten SAD positions that the department reclassified between July 1, 1984, and June 30, 1989. We could not determine the total number of reclassified positions because the department does not maintain summary information that clearly identifies this type of personnel action. We also sought clarification from officials in the Department of Finance concerning appropriate procedures for state agencies to follow when reclassifying positions.

During our review of the use of leave by SAD employees when participating in federal active duty, we analyzed leave data for a sample of 22 SAD employees from approximately 200 SAD employees who participated in federal active duty between July 1, 1984, and June 30, 1989. We reviewed time and attendance sheets, military orders, and state and federal payroll records.

We also analyzed whether SAD officers were appropriately paid according to the grade of their position and concluded that they were.

We were also asked to review involuntary retirements of California National Guard officers, the department's procedures for conducting inquiries and investigations of its units and personnel, and a possible conflict between state and federal law concerning age as a criterion for employment in the department. Because the department does not maintain historical summaries of personnel information on automated data bases, we were unable to document the number of officers who were involuntarily transferred to the retired or reserve lists of

the California National Guard. We were able to identify four former active members of the California National Guard who were involuntarily transferred to the retired or reserve lists, and we reviewed each of their personnel files. We reviewed federal and state statutes, regulations of the Departments of the Army and the Air Force, and a federal court case. In addition, we interviewed three of the four former active members of the California National Guard, as well as officials at the department.

During our review of the department's procedures for conducting inquiries and investigations, we analyzed Air Force and Army regulations and state and federal laws. In addition, we requested an opinion from the Legislative Counsel concerning procedural requirements for conducting inquiries and investigations. We also interviewed several members of the California National Guard who were involved in a 1984 inquiry conducted by the department.

To determine if there is a possible conflict between state and federal law concerning age as a criterion for employment in the department, we requested an opinion from the Legislative Counsel. We discuss the Legislative Counsel's opinion in the appendix of this report.

In a review of four of nine grievances filed from fiscal year 1986-87 through fiscal year 1988-89 by SAD personnel, we found that the department generally complied with its own regulations governing

grievances. Finally, we attempted to review grievances filed with the inspector general of the California National Guard, which are under the control of the federal U.S. Army Office of the Inspector General. We requested access to these records under the Freedom of Information Act, but as of April 2, 1990, the U.S. Army inspector general had not completed his review of these records and released them to us.

## AUDIT RESULTS

### I

#### **THE MILITARY DEPARTMENT SHOULD IMPROVE ITS USE AND MANAGEMENT OF STATE ACTIVE DUTY EMPLOYEES**

Although the Military Department (department) converted 23 State Active Duty (SAD) positions to state civil service positions between July 1, 1984, and December 31, 1989, at least 30 more of the department's 210 SAD positions do not clearly require military knowledge and experience and could also be converted. Although converting some of these positions would increase the department's personnel costs, overall the department would save approximately \$57,000 annually by converting all 30 positions. In addition, qualified civil service employees would be offered the opportunity to compete for these positions. Since the department has not developed written criteria for periodically evaluating SAD positions to determine if they should be converted, it is paying more than it needs to for some of its positions, and qualified state civil service employees may miss opportunities to compete for these positions.

Before the department reclassifies a SAD position with a minimum salary above a certain specified level, it must request approval from the Department of Finance, as required by Section 31 of the Budget Act. However, in our review of ten of the positions reclassified between fiscal years 1984-85 and 1988-89, the department did not request such approval for five. When departments do not follow

proper procedures for reclassifying positions, the Legislature does not have accurate information to oversee the expenditure of funds for state programs.

Between July 1, 1984, and June 30, 1989, the department filled 34 of 54 vacancies for SAD officer positions that we reviewed without either announcing the vacancies or gaining approval to waive the announcements, as department regulations require. According to an unwritten policy, 18 of these positions were exempt from the announcement provisions because they are "key staff." Because the department did not follow its regulations, qualified individuals may have missed opportunities to compete for vacant SAD positions, and the department may have missed opportunities to select the best-qualified individuals for the vacant positions.

In a sample of 22 SAD employees who participated in federal active duty between July 1, 1984, and June 30, 1989, 14 employees did not take appropriate leave as required, and 8 of these 14 had exhausted their military leave. As a result, the department inappropriately paid these 8 individuals their regular duty compensation of \$10,600 for periods ranging from one day to 72 days--a total of 165 days.

More State Active Duty Positions  
Could Be Converted to State  
Civil Service Positions

The adjutant general, on behalf of the governor, appoints members of the State's Active Militia to SAD military positions. The active militia includes the California National Guard, the State Military Reserve, and the Naval Militia. Under Article 7, Section 4, of the State's Constitution, members of the militia are exempt from the provisions of state civil service while engaged in military service. Section 164 of the Military and Veterans Code specifies that, subject to the approval of the Department of Finance, the adjutant general appoints and fixes the salaries of all clerical, expert, and technical assistants necessary for the proper conduct of his office. According to Section 164, the Office of the Adjutant General must be organized, in general, according to staffing guidelines set forth by the Department of the Army and the Department of the Air Force when they are not in conflict with state laws.

According to the adjutant general, SAD positions are important to the department for a number of reasons. For example, certain positions in the department require employees with military knowledge and experience. In addition, SAD military positions provide the adjutant general and the department with greater flexibility in fulfilling critical assignments than state civil service positions do.

Further, the flexibility of the department in assigning SAD military employees enhances its ability to promptly respond in times of crisis or emergency.

However, as the department's recent personnel actions indicate, not all of the department's positions require military experience and knowledge. For example, between July 1, 1984, and December 31, 1989, the department converted 23 of its SAD positions to state civil service positions. Overall, from July 1, 1984, to February 1, 1990, the number of SAD positions in the department has decreased from 227 to 210. Moreover, in 1985, the department established a policy that no new SAD positions would be created if comparable state civil service classifications exist for the positions unless it is clearly shown that military positions are necessary and that the new positions should therefore be established as SAD positions. However, according to the adjutant general, the department has not developed specific written criteria or procedures for evaluating vacant SAD positions for possible conversion to state civil service.

To determine if the duties performed by SAD employees could be performed by state civil service employees, we used a three-step approach to review a sample of SAD positions. First, we determined if the positions require employees with military knowledge and experience and should, therefore, be classified as SAD positions. Second, we determined if comparable state civil service classifications exist for

SAD positions that do not require employees with military knowledge and experience. Third, we compared the costs to the department of using SAD employees with the costs of using state civil service employees in positions that need not be classified as SAD. We found that the department could convert more SAD positions to state civil service positions and concurrently reduce its personnel costs.

When we attempted to identify the criteria that the department uses to determine if a position should be a SAD position or a state civil service position, we found no written criteria for making this determination. Since the department lacks specific written criteria, we developed our own. To do this, we analyzed the SAD position descriptions for duties and responsibilities that clearly require an employee with military knowledge and experience.

We evaluated a judgmental sample of 37 of the department's 210 SAD positions according to the criteria that we developed. Of these 37 SAD positions, 22 were evaluated for possible conversion to state civil service classifications by the federal National Guard Bureau in a 1989 report (described later in this report). We determined that the remaining 15 positions in our sample were possible candidates for conversion to state civil service classifications after a preliminary review of their position descriptions.

Of the 37 positions, only two position descriptions reflected the need for a military person. These descriptions listed duties and responsibilities for ensuring the accomplishment of military missions. The descriptions of the remaining 35 positions did not clearly show the need for military persons. For example, the duties for one of these positions, a rehabilitation noncommissioned officer, include upholstering, refurbishing, and constructing office furniture and operating spray paint equipment. The duties and responsibilities of another of the 35 positions, a maintenance noncommissioned officer, include performing preventative maintenance on vehicles and equipment, diagnosing mechanical and electrical problems on vehicles and equipment and repairing them, and maintaining various reports and records. A third position was that of a budget officer, whose duties and responsibilities include preparing budgets and providing budget information, analyzing historical expenditures, and developing expenditure projections and funding requirements. Comparable state civil service classifications exist for all three of the positions described above.

We compiled a list of the 35 positions that we determined did not clearly require an employee with military knowledge and experience and gave it to the department's director of state personnel programs and to the deputy adjutant general for the Resource Management Division. We asked them for documentation showing that any of these positions required a SAD classification. They were unable to provide us with such documentation.

Our finding that most of the position descriptions in our sample did not clearly show the necessity for military personnel is consistent with a similar finding in a December 1988 report by the department's Office of Internal Audit and Management Review, which reviewed 16 of the department's SAD positions. The report concluded that some of the position descriptions did not reflect the necessity of military skills.

The next step in our analysis was to determine if there are existing state civil service classifications with duties and responsibilities comparable to the 35 positions remaining in our sample. The staff in the Department of Personnel Administration informed us, based on a preliminary review, that there are comparable classifications for 30 of the 35 positions. According to the staff we consulted, there are no existing state civil service classifications for the other 5 positions. However, according to these staff, comparable state civil service classifications could be identified for one or more of the positions if the duties and responsibilities of the positions were restructured.

We provided the results of our review of the 35 positions to the department's deputy adjutant general for the Resource Management Division and to its director of state personnel programs. Both of these individuals concurred with the results of the analysis by staff in the Department of Personnel Administration.

The final step in our analysis was to compare the costs of the 30 SAD positions in our sample with the costs of comparable state civil service positions. In comparing these costs, we used wage and benefit data from two sources. To determine the base salary costs of SAD positions we used information from the department's February 1990 position and funding report, which is prepared monthly and includes numerous data concerning the personnel costs of all positions in the department. To determine the base salary costs for comparable state civil service positions, we used the 1990 edition of "Pay Scales, California State Civil Service," published by the Department of Personnel Administration. To determine the costs of benefits for both SAD positions and comparable state civil service positions, we used the actual costs included in the department's position and funding report for the incumbents in each of the 30 SAD positions. These costs include benefits that are common to both SAD employees and state civil service employees, such as Social Security and retirement benefits. In addition, the cost of SAD positions includes benefits that are specific to SAD employees, such as a variable housing allowance and a subsistence allowance.

Our comparison of the costs associated with the 30 SAD positions showed that, overall, the department's personnel costs would decrease by approximately \$57,000 annually if all 30 positions were filled by state civil service employees. Specifically, 15 of the 30 SAD positions would cost the department approximately \$117,000 less annually if converted to state civil service positions, 11 SAD

positions would cost the department approximately \$59,000 more annually if converted, and 4 SAD positions would not result in significant savings or costs if converted.

In 1989, the National Guard Bureau's Office of Internal Audit compared the June 1988 cost of 42 SAD positions to the cost of comparable positions within the state civil service. The study concluded that 28 of the SAD positions were less expensive than comparable state civil service positions and 14 were more expensive. Overall, according to the Office of Internal Audit, it would cost the department approximately \$320,000 more annually in personnel costs if all 42 SAD positions were converted to state civil service positions. However, this study differed from our analysis in two important ways. First, the Office of Internal Audit did not determine whether all SAD positions actually require military experience and knowledge. Second, most of the additional costs identified in this study would result from converting 17 firefighter positions. Excluding these 17 positions from the Office of Internal Audit's analysis and converting the remaining 25 positions would result in an annual savings of approximately \$15,000 to the department.

Since the Office of Internal Audit's study, and as of February 1990, the department has converted or plans to convert 3 of the 25 SAD positions. We included the remaining 22 SAD positions in the sample of 37 SAD positions that we analyzed. Our sample did not include any firefighter positions.

We determined that most of the positions in our sample could be performed by state civil service employees, and approximately one half of the SAD positions would cost the department less if they were converted to state civil service positions. In addition, employees in the state civil service system may be missing opportunities to compete for SAD positions that could be classified as state civil service positions.

According to the deputy adjutant general for the department's Resource Management Division, future vacancies of SAD positions will be reviewed for possible conversion to state civil service.

Appropriate Procedures Are Not Always Followed in Reclassifying State Active Duty Positions

According to Section 31 of the Budget Act, the Department of Finance must notify the Legislature's Joint Legislative Budget Committee within 30 days of authorizing any position not previously authorized by the Legislature, including reclassifications of positions with minimum salaries above a specified level (for fiscal year 1988-89, \$2,740 per month). Section 31 of the Budget Act also stipulates that agencies and departments cannot spend any of their authorized appropriations for increases in their employees' salaries without approval from the Department of Finance. In effect, then, Section 31 of the Budget Act requires state agencies and departments to request approval from the Department of Finance to reclassify positions whose

minimum salary exceeds a certain specified amount. The Department of Finance reminds state agencies and departments, including the Military Department, of this requirement in management memoranda. If state agencies and departments do not request the required approval to reclassify positions, then the Department of Finance cannot provide complete and accurate information to the Legislature concerning these personnel actions.

To determine if the department properly reclassified SAD positions between fiscal year 1984-85 and fiscal year 1988-89, we reviewed a list of the department's personnel actions. However, we could not determine the total number of reclassified positions because the department does not maintain summary information that clearly identifies this type of personnel action. From the list of personnel actions, we selected and reviewed a sample of ten positions reclassified by the department during our review period with minimum salaries above that specified in Section 31 of the Budget Act for each of those years. All ten of these personnel actions required the approval of the Department of Finance. We analyzed the department's internal reclassification documents for these SAD positions, documents submitted by the department to the Department of Finance, military pay tables, and information in the governor's budget for fiscal year 1984-85 through fiscal year 1988-89.

The department requested and received approval from the Department of Finance to reclassify five of the ten positions we reviewed. However, the department did not obtain approval from the Department of Finance for the reclassifications of the other five positions, all of which involved increases in the salary levels of the positions. In three of these five reclassifications, the department notified the Department of Finance that titles of authorized positions were changed but not that salary levels had increased. In the remaining two reclassifications, the department could not provide evidence that it informed the Department of Finance of any changes.

According to the department's director of state personnel programs, various positions in the department have been reclassified over the years in the manner described above, and the department has assumed that reclassifications of positions were approved by the Department of Finance when it was notified of changes in position titles. The deputy adjutant general for the Resource Management Division stated that, in the future, the department will request prior approval from the Department of Finance before reclassifying any SAD positions with minimum salaries greater than that specified in Section 31 of the Budget Act.

When departments do not follow proper procedures for reclassifying positions, the Department of Finance cannot provide accurate information to the Legislature's Joint Legislative Budget Committee in accordance with Section 31 of the Budget Act. As a

result, the Legislature would not have accurate information to oversee the expenditure of funds for state programs.

Vacancies for State Active  
Duty Positions Are Not Always  
Announced, As Required

The department's personnel regulations governing its SAD positions specify that vacancies for permanent positions must be announced in circulars distributed to all National Guard facilities and units in the State. The department's announcement policy is designed to produce a pool of applicants for vacant SAD positions from which the best-qualified applicant may be selected. The department is to include in the announcements for each position the title and pay grade, employment location, qualification requirements, and principal functions. According to the department's regulations, exceptions to the policy of announcing position vacancies must be approved by a member of the department's senior management. In addition, the department's personnel regulations specify that the best-qualified individuals should be selected for vacant SAD positions.

To determine whether the department has complied with its regulations requiring announcement of vacancies for SAD positions, we reviewed 54 vacancies that occurred between July 1, 1984, and June 30, 1989. We asked department officials to provide us with copies of the announcements, or, if position vacancies were not announced, for evidence of approval for these exceptions to the department's announcement policy.

Of the 54 position vacancies we reviewed, 20 were handled in compliance with the department's regulations. The department announced vacancies for 16 SAD positions and approved exceptions for 4 unannounced position vacancies.

The remaining 34 position vacancies in our review were not handled in full compliance with the department's regulations. The department did not announce vacancies for 18 "key staff" positions, which the department considers exempt from the announcement provisions in its regulations. According to the adjutant general, the exemption for key staff positions permits him to fill these positions with exceptionally well qualified personnel who have the proven abilities deemed necessary to carry out the mission of the department. As of February 9, 1990, the department identified 25 of its 210 SAD positions as key staff positions. However, the department's regulations do not specify that key staff positions are exempt from the the announcement provisions in its regulations.

For the remaining 16 of 34 unannounced position vacancies, department officials were unable to provide evidence of announcement or approval for exception to the department's announcement policy. In addition, we determined that the department's regulations do not require written justification for exceptions to its announcement policy, which would provide the department's senior management

officials greater assurance that its hiring supervisors and managers comply with the department's policy for announcing vacant SAD positions.

Because the department did not always follow its regulations for announcing SAD position vacancies, qualified individuals among the members of California's National Guard may have missed opportunities to compete for vacant SAD officer positions. Further, the department may have missed opportunities to select the best-qualified individuals for vacant SAD officer positions.

The department did not always follow its regulations for announcing SAD position vacancies because the deputy adjutant general for resource management and the department's director of state personnel programs, who are responsible for personnel matters concerning SAD employees, did not rigorously enforce these regulations. In addition, these staff did not fully enforce the department's regulations requiring approval for exceptions to its announcement policy.

#### Weak Controls Over Leave Reporting

SAD employees who are members of the California National Guard are required to participate in four-hour drill and instruction periods at least 48 times each year and in at least 15 days of training activities each year. This 15-day training requirement, which must

generally be met by members of the California National Guard, is known as "annual training." In addition to drill and annual training, members of the California National Guard also periodically participate in other federal active duties for which they are paid by the federal government, such as "active duty for special work," which is established to accomplish Army National Guard work projects or missions.

The purpose of training activities is to ensure that California National Guard units are well-prepared to perform their assignments in support of their federal and state missions. Training activities may include simulated flight training, pistol and rifle training, and medical training for medical officers.

Section 395.01 of the Military and Veterans Code provides that public employees who have worked for a state agency for at least one year are entitled to their regular salary for the first 30 days of temporary leave for military duty ordered for active military training, encampment, naval cruises, special exercises, or similar activity. In other words, public employees have available 30 days of paid military leave each year that they may use when they are ordered to federal active duty. Annual training and other federal active duties in which SAD employees participate are examples of the military duty specified in Section 395.01. Weekend training drills, which are classified as "inactive" training, do not fall under the provisions of Section 395.01.

The department's regulations specify that SAD employees who participate in federal active duty must use military leave for each day of duty. If SAD employees participate in federal active duty after exhausting their 30 days of paid military leave, then they must use annual leave or leave without pay.

We reviewed the use of leave for a sample of 22 of the approximately 200 SAD employees who participated in federal active duty from July 1, 1984, through June 30, 1989. Specifically, we compared time and attendance sheets, military orders, and payroll documents to determine if these 22 SAD employees took the appropriate leave when participating in federal active duty.

We found that 14 of the 22 employees participated in federal active duty at least once without taking military leave, annual leave, or leave without pay. Of the 14 employees, 6 had not exhausted the paid military leave to which they are entitled and could have charged the days on federal active duty to military leave. The remaining 8 individuals had exhausted their available military leave at the time that they participated in a total of 165 days of federal active duty. As a result, the department inappropriately paid these 8 individuals their regular duty compensation for periods ranging from one day to 72 days. We estimate that they were inappropriately paid approximately \$10,600 for the 165 days of federal active duty.

The discrepancies that we identified in the use of leave by SAD employees occurred because these employees did not always submit accurate time and attendance sheets and supervisors of these employees did not always verify the time and attendance sheets of the employees they supervise before signing the sheets.

The adjutant general has issued a memorandum to all SAD employees and their supervisors advising them to ensure that appropriate leave is taken for federal active duty. The memorandum also stated that individuals purposefully submitting fraudulent attendance reports will be appropriately disciplined. Further, the department has initiated an internal audit of the use of leave for all SAD employees who participated in federal active duty from July 1, 1984, through June 30, 1989.

#### CONCLUSION

Of 37 SAD positions that we reviewed, only 2 indicated a need for a SAD employee, and 30 of these could be filled by state employees in existing state civil service classifications. Although converting some of these positions would increase the department's personnel costs, overall the department would save approximately \$57,000 annually by converting all 30 positions.

Before the department reclassifies a SAD position with a minimum salary above a level specified in the Budget Act, it must request approval from the Department of Finance. However, in five of the ten position reclassifications that we reviewed, the department did not request such approval. When departments do not follow proper procedures for reclassifying positions, the Legislature does not have accurate information to oversee the expenditure of funds for state programs.

The department's regulations require that all vacancies for SAD positions be announced throughout the department and that exceptions to this policy be approved by senior management. However, 34 out of 54 vacancies for SAD officer positions that we reviewed were not handled in full compliance with the department's regulations. As a result, qualified individuals may have missed opportunities to compete for some vacant SAD positions, and the department may have missed opportunities to select the best-qualified individuals for vacant positions.

SAD employees who participate in federal active duty must take military leave, annual leave, or leave without pay from their regular duties. However, in a sample of 22 SAD employees who participated in federal active duty between July 1, 1984, and June 30, 1989, 14 employees did not take appropriate leave from their regular duties. Since 8 of these 14 employees had exhausted their military leave at the time they participated

in federal active duty, we estimate that the department inappropriately paid them approximately \$10,600.

#### RECOMMENDATIONS

To improve its use and management of State Active Duty (SAD) employees, the Military Department should take the following actions:

- Develop explicit written criteria for determining if a position must be a military position, i.e., a SAD position;
- Develop written procedures for evaluating positions to determine if they should be SAD positions or state civil service positions;
- Periodically evaluate existing SAD positions to determine if they should be converted to state civil service positions;
- Convert SAD positions when they become vacant to state civil service positions if military experience is not required, if comparable state civil service position classifications exist, and if the state civil service positions would cost less than the SAD positions or if the conversion would be in the State's best interest;

- Submit requests to reclassify SAD positions to the Department of Finance in accordance with its directives and with provisions of the Budget Act;
- Take immediate steps to recoup inappropriate payments to SAD employees who did not take appropriate leave from their regular duties when participating in federal active duty;
- Ensure that supervisors of all SAD employees verify and approve the time and attendance sheets of their subordinates;
- Ensure that all vacancies for SAD positions are announced as required by the department's regulations or that appropriate senior management officials approve exceptions to the vacancy announcement policy; and
- Require supervisors who request approval for exceptions to the department's vacancy announcement policy to provide written justification to senior management officials.

## II

### A REVIEW OF THE MILITARY DEPARTMENT'S PRACTICES CONCERNING RETIREMENTS AND INVESTIGATIONS

The adjutant general, on behalf of the governor, has the legal authority under Sections 210 and 239 of the Military and Veterans Code (code) to transfer active members of the California National Guard to retired and reserve lists. Section 239 of the code, added in 1986, provides the governor, and thereby the adjutant general, with explicit authority to make such transfers of warrant officers and commissioned officers in the California National Guard. In addition, in 1983 a federal district court ruled and in 1984 a federal appellate court affirmed that the adjutant general, on behalf of the governor, has the authority to remove officers from their positions in the California National Guard and place them in a reserve or retired status without a hearing or other findings. Between February 1, 1984, and June 30, 1989, the adjutant general used his authority under Section 210 to transfer at least four senior officers in the California National Guard, two of whom were terminated from their federal positions as a result of their transfers.

According to a March 13, 1990 Legislative Counsel opinion, witnesses in criminal investigations by the department must be advised of certain legal rights if they are suspected or accused of a criminal offense and they are in custody or deprived of their freedom of action in any significant way. In conducting an official inquiry at a California National Guard base in 1984, the department's inquiry team

interviewed witnesses whose activities were the focus of the inquiry. According to the transcripts of these interviews, the department's inquiry team did not suspect or accuse these witnesses of any federal or state offenses. Therefore, the inquiry team did not advise them of the rights of suspected or accused witnesses and was not required to do so.

The Adjutant General Has the Authority To Transfer Active Officers of the California National Guard to Reserve or Retired Lists

We reviewed the personnel files of four senior officers in the California National Guard who were separated from active membership between February 1, 1984, and June 30, 1989, to determine the authority under which they were separated. These officers, who held senior command positions, were transferred to the "retired or reserve lists" of the California National Guard pursuant to the authority in Section 210(c) of the Military and Veterans Code (code).

Section 210 of the code does not explicitly give the adjutant general the authority to transfer members of the California National Guard to the retired or reserve lists; it simply lists the entities that constitute the National Guard, including "officers and enlisted men on the retired and the reserve lists." However, there are no actual lists of members of the California National Guard who have been transferred to the retired or reserve lists pursuant to the authority in Section 210(c) of the code. Individuals transferred under the

provisions of this section are effectively separated from active membership in the California National Guard; they are rarely called back to active membership.

In addition to being separated from active membership in the California National Guard, members who are "excepted" federal employees and who are transferred to the retired or reserve lists under the provisions of Section 210 of the code lose their full-time federal employment. As pointed out earlier, excepted federal technicians and federal active guard/reserve personnel are required as a condition of employment to hold "federally recognized" positions in the National Guard. When members of the California National Guard leave or are removed from their federally recognized positions and transferred under the provisions of Section 210 of the code, their federal employment is terminated. Of the four separated senior officers whose personnel files we reviewed, two were excepted federal technicians whose federal employment was terminated as a result of their transfers to the reserve list.

The authority of the adjutant general to transfer members of the California National Guard to the retired or reserve lists without a hearing or findings has been challenged in federal court. A federal district court heard a case in which a California National Guard officer charged that her constitutional rights were violated when she was placed on the reserve list under Section 210(c) of the code. In 1983, the district court ruled and, in 1984, a federal appellate court

affirmed that the adjutant general on behalf of the governor has the authority to remove officers in the California National Guard from their positions and place them in a reserve or retired status without a hearing or findings.

In 1986, the Legislature made explicit the authority of the governor, and thereby the adjutant general, to transfer commissioned officers and warrant officers of the California National Guard to the retired or reserve lists by adding Section 239 to the code. Section 239 states the following: "The governor may assign, reassign, or transfer commissioned officers and warrant officers from one organization to another or to the retired or the reserve list when deemed for the benefit of the California National Guard. The governor may direct the adjutant general to take any action under this section." According to Section 163 of the code, the adjutant general issues all orders in the name of the governor.

The Department Was Not Required  
To Follow Certain Procedures  
in Conducting a 1984 Inquiry

Following a 1984 inquiry into allegations of impropriety at a California National Guard base, questions concerning the department's procedures for conducting inquiries and investigations were raised. According to the current adjutant general, the department follows prescribed regulations and law in the conduct of inquiries and investigations. For example, the U.S. Army inspector general assigned

to the California National Guard is required to conduct inquiries and investigations in accordance with Army Regulation 20-1. In addition, depending on the nature and subject of the inquiry or investigation, the department may elect to follow the requirements of Air Force Regulations 120-3 and 120-4, or the adjutant general may elect to use the authority in the Government Code, Section 11180.

Section 11180 et seq. of the Government Code authorizes the head of a state department to make investigations of all matters relating to the business activities and subjects under the jurisdiction of the department; these code sections do not, however, specify procedures to be followed by state officials when conducting investigations. In contrast, the Army Regulations 20-1 and the Air Force Regulations 120-3 and 120-4 include specific procedures that must be followed by investigators, including procedures for interviewing witnesses during inquiries and investigations. Some of the procedures in the Army and Air Force regulations concern the rights of individuals suspected or accused of an offense. For example, before an Army or Air Force investigator interviews a witness who is suspected of an offense, the investigator must advise the witness of his or her rights, which include the right to be informed of the nature of the alleged offense, the right to remain silent, the right to consult with legal counsel before being questioned, and the right to have legal counsel present during questioning.

The procedures in the Army and Air Force regulations concerning the rights of individuals suspected of offenses are similar to provisions in the federal Uniform Code of Military Justice (UCMJ), which is Chapter 47, Section 801 et seq., in Title 10 of the United States Code. These provisions are specified in Section 831 of Title 10 (Article 31 of the UCMJ), Sections (a) and (b), and state the following:

- (a) No person subject to this chapter may compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him.
- (b) No person subject to this chapter may interrogate, or request any statement from, an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial.

According to the Military and Veterans Code, Section 102, the UCMJ governs and is applicable to the State's Active Militia, including the California National Guard, except as otherwise provided in this code or in regulations adopted by the adjutant general. According to a March 13, 1990 opinion by the Legislative Counsel, military officers in the department must comply with the provisions of Article 31 of the UCMJ when, as part of a criminal investigation, they question a witness who is suspected or accused of a criminal offense and who is "'in custody or otherwise deprived of his freedom of action in any significant way.'"

The former adjutant general has stated that he authorized the 1984 inquiry under the authority of the Government Code, Section 11180. The inquiry was conducted in January 1984 by a three-person team, including the department's inspector general, that took sworn testimony from witnesses and reviewed various documents. Among the witnesses who provided testimony were individuals whose activities were the focus of the inquiry. After the inquiry was completed, the team prepared a report and submitted it to the former adjutant general.

The report recommended that the former adjutant general take certain personnel actions concerning the witnesses whose activities were the focus of the inquiry. It recommended specifically that consideration be given to removing one of these individuals from his position. Although the former adjutant general did not approve the inquiry report, based on information in the report and information from other sources, he removed this individual from his position and transferred him to the reserve list of the California National Guard. This personnel action resulted in the termination of this individual's full-time employment as a federal technician. The authority to take these types of personnel actions has been found by federal courts to be within the authority of the adjutant general to manage the California National Guard.

According to the transcripts of the inquiry team's interviews with the individuals whose activities were the focus of the inquiry, these individuals were informed before the interviews that they need not answer any questions if their response might tend to incriminate them. In addition, according to the transcripts, the investigators informed these individuals that, at that time, they were not suspected of any offense under federal or state law and therefore were not being advised of the rights to which such a person is entitled. Moreover, the investigators informed these individuals that if during the interviews they became suspects, then the investigators would tell them and inform them of the rights of suspects.

Since the transcripts of these witnesses' testimony indicate that the department's inquiry team did not suspect or accuse them of offenses under state or federal law at the time that they were interviewed, then, according to the Legislative Counsel's opinion, the procedural safeguards in Article 31 of the UCMJ do not apply. The inquiry team did inform each of these witnesses that if they became suspects during their interview, then they would be informed of the rights of a person suspected of a criminal offense. Consequently, the inquiry team was not required to advise the witnesses before interviewing them of the rights of suspected or accused individuals. Further, the inquiry team did not recommend that criminal charges be brought against any of the witnesses who testified, including the witnesses whose activities were the focus of the inquiry.

According to the adjutant general, a joint regulation, applicable to all activities and organizations under the jurisdiction of the department is being developed now to require the use of Army or Air Force procedures and formats, as appropriate, for both state and federal inquiries or investigations conducted under authority of state law or federal regulations.

#### CONCLUSION

Between February 1, 1984, and June 30, 1989, the adjutant general, on behalf of the governor, removed at least four senior officers in the California National Guard from their command positions and transferred them to the retired or reserve lists of the California National Guard under the authority of Section 210 of the Military and Veterans Code. Of these four senior officers, two were terminated from their federal employment as a result of their transfers. The adjutant general's legal authority to make such transfers on behalf of the governor has been upheld in a federal district court and a federal appellate court.

According to a March 13, 1990 opinion of the Legislative Counsel, military officers in the department must advise individuals who are accused or suspected of a criminal offense and who are in custody or otherwise deprived of their freedom of action in any significant way of specific legal rights

before interviewing them during a criminal investigation. The transcripts of interviews with individuals whose activities were the focus of an official inquiry conducted by the department in 1984 indicate that the department's inquiry team did not suspect or accuse these witnesses of federal or state offenses at the time of the interviews. The inquiry team did not therefore advise the witnesses of the rights to which a suspected or accused person is entitled and was not required to do so.

We conducted this review under the authority vested in the auditor general by Section 10500 et seq. of the California Government Code and according to generally accepted governmental auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



KURT R. SJÖBERG  
KURT R. SJÖBERG  
Acting Auditor General

Date: April 2, 1990

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APPENDIX

**POSSIBLE CONFLICT BETWEEN STATE LAW  
AND FEDERAL LAW CONCERNING EMPLOYMENT  
IN THE MILITARY DEPARTMENT BEYOND AGE 60**

According to the California Military and Veterans Code, Section 167, as amended by Chapter 369 of the Statutes of 1985, all permanent State Active Duty personnel in the Office of the Adjutant General, except for the adjutant general, the assistant adjutant general, and officers assigned to general officer positions, may remain on active duty with the office until age 60 or until federal recognition of their position in the California National Guard is withdrawn, whichever occurs later.

According to a March 13, 1990 opinion by the Legislative Counsel, the federal Age Discrimination in Employment Act (act) makes it unlawful to discriminate against employees or job applicants who are 40 years of age or older. More specifically, the act makes it unlawful for an employer to "limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individuals of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's age."

According to a May 9, 1988 opinion that the Office of the Attorney General sent by memorandum to the Military Department, the act does not apply to uniformed members of the military--such as personnel on active duty in the Office of the Adjutant General. However, according to the Legislative Counsel, an individual's loss of ability to serve on active duty in the Office of the Adjutant General after age 60 is the type of adverse effect that the federal act prohibits. Consequently, the act may prevent the application of the age limitation on service in the Office of the Adjutant General by persons whose rank is no longer recognized by the federal government. However, according to the Legislative Counsel, whether the age limitation applies to a particular person may depend upon the duties of the person, especially his or her "federal military functions," and on the connection between age and the proper performance of those duties.

Since the application of Section 167 could pose a risk to the State if a court ruled in favor of an individual who was terminated under its provisions and sought redress under federal law, we notified the adjutant general and the appropriate legislative committees in April 1990 of the Legislative Counsel's opinion.



GEORGE DEUKMEJIAN  
Governor

State of California  
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March 27, 1990

Kurt R. Sjoberg  
Acting Auditor General  
660 J Street, Suite 300  
Sacramento, CA 95814

Dear Mr. Sjoberg:

Thank you for the opportunity to provide comments on the report of a recent Military Department audit covering the period July 1, 1984 to December 31, 1989.

Before addressing the recommendations, I believe it is important to the readers of the report to emphasize that the Military Department is a military organization. As such, personnel on state active duty are in a military status 24 hours a day, seven days a week. Consequently, it would be inappropriate to consider the state active duty system as equivalent in all respects to state civil service. The California Constitution, Article 7, Section 4 (k) exempts "members of the militia of the state while engaged in military service" from the state civil service system.

My responses to the recommendations for improvement contained in the summary of the report are listed below:

- Procedures for determining whether a position can be considered for state active duty or state civil service shall be refined and formalized. Written criteria and procedures are being developed and will be published within 30 days to (1) determine if a position should be state active duty, (2) establish formal procedures for evaluating current positions to determine the appropriate and proper employment status, state active duty or state civil service and (3) periodically evaluate existing state active duty positions on at least a semiannual basis to determine if they should be converted to state civil service. Conversions will continue to be managed through attrition.
- When required, all future requests to reclassify state active duty positions will be submitted to the Department of Finance for their approval. Past deficiencies identified by the report resulted from an assumption that notification of position title changes to the Department of Finance was sufficient. Additionally, the department assumed that because there was no increase to the department's budget and the overall number of state active duty grades authorized by the Budget Act were not exceeded, the title change notification would suffice.
- Inappropriate payments to state active duty personnel who were not in a proper leave status while participating in federal active duty will be recouped. Each supervisor and individual state active duty member

has been advised in writing of the necessity to insure that military leave is properly recorded, verified and approved. A copy of the notification to each state active duty employee and supervisor is attached.

- The Deputy Adjutant General, Resource Management Division, has been instructed to insure that state active duty position vacancies are announced or properly exempted from announcement as required by current department regulations. Exceptions to the announcement system will require written justification in accordance with department regulations.

My staff and I appreciate the recommendations for improvement contained in the report and the helpful informal suggestions and comments provided by your auditors during the lengthy duration of this audit. Based on my own observations and comments from my staff, it was apparent that your audit team was thoroughly professional and courteous in accomplishing their assigned task. Your efforts will enhance the overall capability of this department in serving the citizens of California.

Sincerely,



Robert C. Thrasher  
Major General  
The Adjutant General

Enclosure



GEORGE DEUKMEJIAN  
Governor

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CARM

6 MAR 1980

MEMORANDUM FOR All State Active Duty Members and their Supervisors

SUBJECT: Attendance Reporting for SAD Personnel

1. The Military Department is currently having a performance audit conducted by the State of California Auditor General. During the course of this audit, it was discovered that several State Active Duty (SAD) members have performed federal military duty during the past several years and have not charged appropriate leave. This failure to report or submit a correct time and attendance report is in direct violation of current regulations and constitutes a basis for disciplinary action.
2. In view of this problem, I have directed the Deputy Adjutant General, Resource Management to strengthen current procedures for reviewing Federal Military Orders for Army and Air Guard SAD members to ensure appropriate coding. Incorrect or doubtful attendance reports will be returned by State Personnel through the appropriate Deputy Adjutants General for clarification. Additionally, a 100 percent audit of all SAD time and attendance reports is immediately being conducted, which could result in adjustments to a SAD member's pay.
3. Individuals on SAD as well as those signing attendance reports are reminded that leave, either military leave, ordinary leave or leave without pay must be charged for each day of federal military active duty including weekends and holidays. Inactive duty performed outside regular SAD weekdays and work hours need not be charged to a leave status. State Active Duty members are also required to be on duty a minimum of eight hours each workday at least five days a week. A reading of CA ARNGR 600-1 and CA ANGR 35-1 is suggested to refresh your memory on these procedures.
4. State Active Duty personnel are individually responsible to ensure appropriate leave is taken for all absences including days while on federal active duty. Supervisors and those personnel verifying and signing attendance reports are charged with reviewing and scrutinizing, as necessary, these reports and fully ensuring correctness and appropriate leave charges. All individuals involved in the administration of attendance documents are admonished to take utmost care in preparing and approving such documents and to preclude fraudulent submissions. Individuals purposefully submitting fraudulent attendance reports will be appropriately disciplined.

*Robert C. Thrasher*  
ROBERT C. THRASHER  
Major General  
The Adjutant General

cc: Members of the Legislature  
Office of the Governor  
Office of the Lieutenant Governor  
State Controller  
Legislative Analyst  
Assembly Office of Research  
Senate Office of Research  
Assembly Majority/Minority Consultants  
Senate Majority/Minority Consultants  
Capitol Press Corps